

1 **R277. Education, Administration.**

2 **R277-719. Standards for Selling Foods Outside of the Reimbursable Meal in**  
3 **Schools.**

4 **R277-719-[2]1. Authority and Purpose.**

5 [A.](1) This rule is authorized by

6 (a) Utah Constitution Article X, Section 3, which vests general control and  
7 supervision ~~of~~over public education in the Board;

8 (b) Section 53A-1-401~~(3)~~, which allows the Board to ~~adopt rules in accordance~~  
9 ~~with its responsibilities~~ make rules to execute the Board's duties and responsibilities under  
10 the Utah Constitution and state law;

11 (c) Section 53A-19-201(1), which allows the Board to set standards relating to the  
12 use of school lunch revenues; and

13 (d) Section 53A-1-402(1)(e), which requires the Board to establish rules concerning  
14 school productivity and cost effectiveness measures and federal programs.

15 [B.](2) The purpose of this rule is to outline requirements for LEA policies regarding  
16 foods sold outside of the reimbursable meal service.

17 **R277-719-[4]2. Definitions.**

18 [A. "Board" means the Utah State Board of Education.]

19 [B.](1) "Competitive foods" as provided in 7 CFR 210, means all food and  
20 beverages, other than meals reimbursed under programs authorized by federal child  
21 nutrition laws ~~[the Richard B. Russell National School Lunch Act, 42 U.S.C., and the Child~~  
22 ~~Nutrition Act of 1966;]~~ available for sale to students on the school campus during the  
23 school day.

24 [C.](2)(a) "Eating area;" ~~[for purposes of this rule;]~~ means the place where the  
25 reimbursable meal is served or eaten.

26 (b) In some schools, ~~[this]~~ the "eating area" may include the entire campus.

27 [D. "LEA" means a local education agency, including local school boards/public  
28 school district or charter school.]

29 (3) "Federal child nutrition laws" means the Richard B. Russell National School

30 Lunch Act, 79 P.L. 396, 60 Stat. 230, and the Child Nutrition Act of 1966, 89 P.L. 642, 80  
31 Stat. 885.

32 ~~[E.](4)~~ “Nutrition Standards” ~~[are defined in]~~ has the same meaning as contained in  
33 7 CFR 210.11 [and are hereby incorporated by reference].

34 ~~[F.](5)~~ “Reimbursable meal” means a meal which meets the requirements ~~[of]~~ set  
35 forth in 7 CFR 210, 211, 215, 220 or 225 [which are incorporated by reference and can]  
36 to be claimed for payment.

37 ~~[G.](6)~~ “School day” means the period from the midnight before, to 30 minutes after  
38 the end of ~~[the official school day]~~ a school’s calendared class time.

39 ~~[H.](7)~~ “School campus” means all areas of the property under the jurisdiction of the  
40 school that are accessible to students during the school day.

41 ~~[I.](8)~~ “Unit” means per container, package or amount served.

42 ~~[J. “USOE” means the Utah State Office of Education.]~~

43 ~~[K.](9)~~ “Vending machine” means a self-service device that, upon insertion of a  
44 coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in  
45 packages.

46 **R277-719-3. LEA Policies Regarding Vending Machines.**

47 ~~[A.](1)~~ Each LEA shall develop and implement a policy for schools that choose to  
48 provide vending machines.

49 ~~[B.](2)~~ ~~[The]~~ A policy implemented in accordance with Subsection (1) shall include:

50 ~~([1]a)~~ a requirement that all agreements for vending machines be in writing in a  
51 contract form approved by the local board of education or charter school governing board;

52 ~~([2]b)~~ accepted uses of vending machine income; and

53 ~~([3]c)~~ generally accepted accounting procedures, including periodic reports to the  
54 LEA of vending machine receipts and expenditures.

55 **R277-719-4. LEA Policies Regarding Competitive Food Sales on Campus.**

56 ~~[A. These]~~ (1) Federal nutrition standards apply to the sale of competitive foods in  
57 all schools offering programs authorized by [the Richard B. Russell National School Lunch

58 ~~Act and the Child Nutrition Act of 1966]~~ federal child nutrition laws on the school campus  
59 during the school day.

60 [B.](2)(a) ~~[The p]~~ Profits from competitive foods shall accrue either to a non-profit  
61 school account or to the non-profit school food service account.

62 (b) Profits from competitive foods may not accrue to the benefit of a for-profit  
63 account or entity.

64 [C.](3) If ~~[the]~~ competitive food~~[(s)]~~ were purchased using non-profit school food  
65 service funds, the ~~[cost of the item shall be reimbursed to the food service account]~~  
66 reimbursement shall ensure revenue from the sale of non-program foods generates at  
67 least the same proportion of revenue as contributed to the non-profit school food service  
68 cost.

69 [D.](4)(a) A competitive food item that is sold by an LEA or an employee or agent  
70 shall meet ~~[all the competitive food nutrient standards as outlined in 7 CFR 210.11]~~ federal  
71 nutrition standards.

72 (b) An LEA[s] may use a Smart Snacks calculator, available online at  
73 <https://foodplanner.healthiergeneration.org/calculator>, to verify that competitive foods sold  
74 meet~~[s competitive food]~~ nutrition standards.

75 ~~[E. Foods which are exempt from the nutrition standards are listed in 7 CFR~~  
76 ~~210.11(c)-(m).]~~

77 **R277-719-5. Fundraising Using Food [/] or Beverages.**

78 [A.](1) ~~[These fundraising standards apply to school fundraising using food or~~  
79 ~~beverages in all schools offering programs authorized by the Richard B. Russell National~~  
80 ~~School Lunch Act and the Child Nutrition Act of 1966]~~ An LEA shall comply with the  
81 standards set forth in this Section if the LEA has a school that offers programs under  
82 federal child nutrition laws on [the] a school campus during the school day.

83 [B.](2)(a) Competitive food and beverage items sold during the school day shall  
84 meet federal nutrition standards ~~[for competitive foods].~~

85 (b) ~~[A special exemption is allowed for the sale of]~~ Notwithstanding Subsection  
86 (2)(a), a school may sell food or beverages that do not meet the competitive food

87 standards for the purpose of conducting infrequent school-sponsored fundraisers, subject  
88 to the following restrictions:

89 (i) An LEA may not hold an exempt fundraiser more than three times per year per  
90 site;

91 (ii) An exempt fundraiser may not last more than five consecutive days; and

92 (iii) The principal of a school holding an exempt fundraiser shall designate an  
93 individual to maintain records for the fundraiser.

94 ~~[C. LEAs may hold specifically exempted fundraisers no more than three times per~~  
95 ~~year per site, with each fundraiser lasting no longer than five consecutive school days.~~

96 ~~——(1) The superintendent or principal of the LEA or school shall designate an individual~~  
97 ~~to maintain records of fundraisers at which foods and beverages that do not meet~~  
98 ~~competitive food standards are sold.~~

99 ~~——(2) Career and Technical Education programs may make written requests for~~  
100 ~~fundraisers, in addition to the three allowed in R277-519-5C, to the USOE Child Nutrition~~  
101 ~~Program Director.]~~

102 (3) The Superintendent may grant permission for exempt fundraisers in addition to  
103 those allowed under Subsection (2)(b) upon the written request of a career and technical  
104 education program.

105 **R277-719-6. LEA Local School Wellness Policies.**

106 ~~[A. Wellness policy requirements apply in all schools offering programs authorized~~  
107 ~~by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966~~  
108 ~~on the school campus during the school day.~~

109 ~~——[B.] Each LEA participating in [the National School Lunch Program or the School~~  
110 ~~Breakfast Program] programs under federal child nutrition laws shall establish a local~~  
111 ~~school wellness policy for all schools under the[ir] LEA's jurisdiction[-], which [The written~~  
112 ~~policy] shall, at a minimum, include all the elements required in 7 CFR 210.30.~~

113 **R277-719-7. Miscellaneous Provisions.**

114 ~~[A.](1) [Schools not participating in the National School Lunch/Breakfast programs]~~

115 If a school does not participate in programs under federal child nutrition laws, the school  
116 shall adopt a written policy for the sale of all foods that are not part of the meal service,  
117 including vending, a la carte or other food sales.

118 (2) A [The] policy required under Subsection (1):

119 (a) shall apply to all foods sold anywhere on the school [grounds] campus during the  
120 school day [when school is in session in all areas of the school accessible to students.];  
121 and

122 [B. The policies] (b) may use the definitions for competitive foods and wellness  
123 policies [from] contained in 7 CFR 210.11 and 7 CFR 210.30.

124 [C. The provisions of this rule shall become effective no later than August 8, 2014.]

125 [D.](3) [The] A local superintendent or school principal or director [of LEA or school]  
126 shall designate an individual who shall [provide] maintain documentation [during audits to  
127 show] of compliance with this [rule] R277-719.

128 **KEY: schools, foods, nutrition, vending machines**

129 **Date of Enactment or Last Substantive Amendment: [August 7, 2014]2018**

130 **Notice of Continuation: [March 12, 2013]2018**

131 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53A-1-401(3);**  
132 **53A-19-201(1); 53A-1-402(1)(e)**